

REQUEST FOR WITHDRAWAL OF ADVISORY ACTION AND ENTRY OF APPLICANT'S AMENDMENTS OF 31 OCTOBER 2005

On 20 September 2005, applicant and his attorney of record held an interview with the Examiner and her supervisory regarding an outstanding Office Action. The result of the interview was the Examiner's better understanding of the methods embodying the invention and resultant products of manufacture, terminology used in the art, and other matters that benefited from clarification. Founded on the advances in understanding made during the interview, applicant submitted a response to the Final Office Action received on 11 October 2005, and corrected a submission defect in a supplemental response received 31 October 2005. It was believed by applicant that the nature of the response raised no new matter or did anything substantially further than clarify the claims. In a communication mailed 9 November 2005, the Examiner issued the above-referenced Advisory Action, which indicated that applicant's proposed amendments raised new issues that would require further consideration and/or search, and consequently declined to enter applicant's amendments.

The basis for the Examiner's actions were stated as follows: "The newly added limitation that the intermediary film be generally uncured and used as a precursor to a final manipulation and curing process requires further search and consideration." For the reasons expressed below, applicant submits that the Examiner's basis for her statement is incorrect, that the Advisory Action should be withdrawn, and the previously unentered claims entered. It is further applicant's belief that once entered, the application will be in condition for allowance.

The basis for applicant's submission is that the objected to claim limitations were previously considered by the Examiner. In originally submitted, as well as previously amended, claim 20, nearly identical limitations are present. However, in claim 20 applicant uses the term "preset". Applicant submits that the term "preset" is substantially equivalent to the term "uncured intermediary film" as defined and taught in the specification. Based upon this submission, the Examiner's basis for objection unsupported.

The specification discloses and teaches on page 5¹, beginning on line 19, the following steps:

- Create an intermediary film;
- Engage in a preset step where extruded films contact molds under non-curing conditions; and
- Mate molds and cure film through a heating process [to join the films].

Claim 20 as presently pending, claims a protein matrix having first and second "preset" films wherein "the first and second films are joined ... prior to and during subsequent curing"

Given the specification's reference to "an intermediary film" and a subsequent cure process where the films are contacted, cured and joined, and claim 20's reference to films being joined prior to and during a curing process, applicant submits that a "preset" film is an "intermediary film" for purposes of the Examiner's evaluation and search criteria. Therefore, the limitations added to claim 1 by applicant's last amendment submission are mere restatements of limitations already present in examined claim 20. Furthermore, in view of the interview where it was agreed upon that the prior art failed to teach the very limitations now present in amended but unentered claim 1, applicant submits that claim 1, as well as claim 20 for reasons just presented, are patentable over the prior art.

In view of the foregoing, and in light of the Examiner's representation to the undersigned that this Advisory Action was issued in error, applicant requests that the additional one month extension fee of \$165 not be required with the filing of this Request (the first month's extension fee was previously submitted with the Non-Compliant Amendment Response). However, in the event that the Examiner requires that the extension fee be submitted with this response, please consider this to be applicant's petition for extension of time and authorization to deduct the \$165 from deposit account number 07-1897.

¹ Page and line references regard PCT publication WO 03/4829 A1.

More importantly, however, applicant requests that the Examiner withdraw the noted Advisory Action, enter applicant's referenced amendment, and substantively consider the issued of patentability that pertain to this application. Applicant submits that upon due consideration, the application should be found in condition for allowance. In the event that any matters remain in this application, the Examiner is encouraged to call the undersigned.

DATED this 12th day of December, 2005.

Respectfully submitted,

GRAYBEAL JACKSON HALEY LLP

A handwritten signature in black ink, appearing to read "Stephen M. Evans", written in a cursive style.

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